



Paper No. 8

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OFFICE OF PETITIONS

In re Application of
Brettman
Application No. 09/550,082
Filed: April 14, 2000
Attorney Docket No. 1855.2007-000

ON PETITION

This is a decision on the "Request for Correction of Inventorship under 37 CFR 1.41(a)(1) or Petition under 37 CFR 1.182 or 1.183," filed on July 30, 2001, requesting entry of an amendment to the above-noted abandoned application to correct the named inventors in this application. This is properly a petition under 37 CFR 1.41(a)(1).

The petition is **GRANTED**.

The application became abandoned on December 28, 2000 due to failure to timely respond to a June 27, 2000 Notice to File Missing Parts of Nonprovisional Application, which informed Applicant that the application as filed on April 14, 2000 lacked, *inter alia*, a properly executed oath or declaration.¹ The petition requests to add Judith A. Fox and David Edward Allison as joint-inventors for the invention claimed in this application.

The application as originally filed on April 14, 2000, while naming Lee R. Brettman, Sudbury, Massachusetts, as the sole inventor, did not include any oath or declaration as required by 37 CFR 1.63. Under §1.41(a)(1), if an oath or declaration as prescribed by §1.63 is not filed during the pendency of a nonprovisional application, which is the case here, the applicant may nevertheless supply the correct inventorship along with a \$130 processing fee set forth in §1.17(i).

The instant petition encloses a "Declaration for Patent Application" which names, and is executed by, all of the inventors mentioned above, and the \$130 processing fee. The petition is thus granted. Inventorship in this application is hereby changed by adding **Judith A. Fox**, San Francisco, California, and **David Edward Allison**, Burlingame, California, as joint inventors. A Filing Receipt reflecting the corrected inventorship is hereby attached.

¹ The missing items included the application basic filing fee, the fee for claims in excess of 20, etc. Applicant submitted on 12/27/00 a \$130 fee for processing and retention of the application under 37 CFR 1.53(f)(5), and further indicated the intent to not submit the missing items by responding to a 1/8/01 "Notice of Incomplete Reply" with a "Reply to Notice of Incomplete Reply (Nonprovisional)" on 1/29/01. The Office of Initial Patent Examination misconstrued the 1/29/01 reply and erroneously charged Deposit Account No. 08-0380 for the \$710 basic filing fee, the \$882 extra claims fee, and the \$130 surcharge for late filing of the application basic filing fee. These charges have been credited to the same deposit account.

In addition, the \$130 surcharge for filing the declaration subsequent to the filing of the original application has been charged to Deposit Account No. 08-0380 as authorized in the instant petition.

Finally, as request by counsel for Applicants on January 4, 2002 (Certificate of Mailing date November 5, 2001), the new correspondence address for this application has been entered and made of record.

The application file is being returned to Files Repository.

Telephone inquiries concerning this decision should be directed to Petitions Attorney RC Tang at (703) 308-0763.



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Attachment: Corrected Filing Receipt